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SUBJECT: TRIAL OF SADDAM HUSSEIN - SESSION 9

¶1. (SBU) SUMMARY: The ninth session of the Ad-Dujayl trial was delayed on February 1 as five of the eight defendants refused to comply with the Court's order to appear before it. After only three defendants complied, the Court heard testimony from two complainants and three witnesses. The defendants' private defense team, which had walked out of the January 30 session, provided the Court with a list of demands, and the Court responded with its own list for the defense team. The new presiding judge, Judge Raouf, has introduced an increased level of procedural discipline and decorum that have made the process more orderly and focused. END SUMMARY.

¶2. (SBU) The ninth session (2/1/06) of the Ad-Dujayl trial was delayed as five of the eight defendants refused to comply with the Court's order to appear before it. Prior to the opening of the session, the presiding judge announced that the session would begin as a closed session. At 1145, the Court ordered the detainees to be brought to the courtroom; however, only three defendants had voluntarily complied by ¶1310. The presiding judge recessed the court to permit additional time for the remaining defendants to comply. The session resumed at 1350 in an open session, although no additional defendants were present. The court heard testimony from the two remaining complainants and the first three of five "at-large" (those not detained) witnesses. (NOTE: Testimonies from injured parties (complainants) are heard prior to evidence from other sources. END NOTE.)

Defense Attorney Wrangling

¶3. (SBU) The defendants were represented by their Iraqi High Tribunal (IHT)-appointed attorneys. The private defense team had been barred from returning to future court sessions after its walkout on January 30. On February 3, the Court received a letter from the private defense team that set the following conditions for their return:

- The Court should be just, impartial, and in accordance with the law;
- The Court should apologize to the defense attorneys and cancel the session held without them;
- Chief Judge Raouf Abdul-Rahman should resign due to his partiality resulting from past persecution by Saddam's former regime;
- The Iraqi Ministry of Interior should ensure the safe travel of the defense attorneys while they are in Iraq, but actual protection of the attorneys and their families should be provided by the U.S. military;
- Adjournments should not be less than one month to

accommodate defense attorneys traveling from outside Iraq; and

-- Only the defendants should have the right to replace their counsel, not the Court.

¶4. (SBU) The Court informed the private defense team that they would be required to: a) submit a public written apology; b) agree to comport themselves properly in court sessions; and, 3) observe decorum standards by wearing the appropriate legal robes for defense attorneys. (COMMENT: RCLO attorneys advise that these requirements appear both prudent and consistent with the Court's responsibilities. There was no indication of any predilection to compromise by either side. END COMMENT.)

Judge Raouf Abdul-Rahman, Presiding

¶5. (SBU) COMMENT: The eighth and ninth sessions provided the clearest example yet of the climate change resulting from the replacement of Judge Rizgar Amin by Judge Raouf Abdul-Rahman as presiding judge. The Court sessions were previously characterized by time consuming diatribes by Saddam Hussein and his co-defendants, obfuscating dialogue by the defense, and procedural confusion. Judge Raouf has introduced an increased level of procedural discipline and decorum that have made the process more orderly and focused. After this session, no one doubts who is in charge. END COMMENT.

¶6. (SBU) Judge Raouf's objectivity was challenged by the expelled defense attorneys' letter of demands in which they questioned the impact of Raouf's personal and familial grievances with the former regime. These grievances were

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said to include his sentencing twice to life in prison and active membership in Kurdish partisan politics.

¶7. (SBU) COMMENT: Although the defense team's allegations were not immediately verifiable, Judge Raouf stated that he would pursue appropriate legal remedies against the defense team for making these claims. The Judge advised the RCLO that his encounters with the law occurred before Saddam came to power and were tied to his previous membership during the 1960s in the Iraqi Communist Party. END COMMENT.

¶8. (SBU) Unconfirmed press reports indicate that Judge Raouf was born in Halabja and that several members of Judge Raouf's family were killed in the chemical gas attack which occurred there in 1988.
KHALILZAD